

# DR. AMBEDKAR: THE PRINCIPAL ARCHITECT OF THE CONSTITUTION OF INDIA

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## Clause wise Discussion on the Draft Constitution

### PART III

November 17, 1949 to November 26, 1949

### SECTION EIGHT

### THIRD READING OF THE DRAFT CONSTITUTION

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Continued...

### GOVERNMENT OF INDIA ACT (AMENDMENT) BILL

**Mr. President** : The first thing today is to take up the Bill of which notice has been given by Dr. Ambedkar.

**The Honourable Dr. B. R. Ambedkar** (Bombay : General) : Sir, I move for leave to introduce a Bill further to amend the Government of India Act, 1935.

**Mr. President** : The question is :—

' That leave be given to introduce a Bill further to amend the Government of India Act, 1935.

The motion was adopted.

**The Honourable Dr. B. R. Ambedkar**: Sir, I introduce the Bill.

**Mr. President** : The Bill is introduced.

**The Honourable Dr. B. R. Ambedkar** : Sir, I move :

"That the bill further to amend the Government of India Act, 1935, be taken into consideration by the Assembly at once. "

**Mr. President** : Motion moved.

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*The motion was adopted.*

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**The Honourable Dr. B. R. Ambedkar** : Sir, I am sure that there is some confusion in the mind of my friend Mr. Naziruddin Ahmad, !as I find by reference to the various Acts that are passed by the Constituent Assembly the proposal in the Bill that it should be called the Fourth Amendment Act is the proper wording. The first Act that was passed by the Constituent Assembly is called the Government of India (Amendment) Act, 1949. The second one is called the Government of India (Second Amendment) Act, 1949, which deals with the removal of prisoners from one unit to another unit. The third

Amendment Act, 1949, deals with evacuee property, and the Bengal election.

**Mr. Naziruddin Ahmad** : It is not called an Amendment Act at all, it has got a different name.

**The Honourable Dr. B. R. Ambedkar** : If you look at clause I, there you will see, " This Act may be called the Government of India (Second Amendment) Act, 1949. " The next one is called the third Amendment Act, 1949, which deals with the custody, management and disposal of evacuee property and the election in West Bengal.

The confusion, I think, has arisen from the fact that we have passed two other Acts in the Constituent Assembly, one relating to the Abolition of Privy Council Jurisdiction and another amending the Central Government and Legislature Act, 1946. Those Acts are not amendments of the Government of India Act, at all. Although those Acts may have indirect effect on the Government of India Act, they are not amendments to the Government of India Act. We are, therefore, entitled to class this as the Fourth Amendment, because, so far as direct amendment of the Government of India Act, 1935 is concerned, this Assembly has passed only three Acts and no other.

**Mr. Naziruddin Ahmad** : But there is no Third Amendment Act, at all.

**The Honourable Dr. B. R. Ambedkar**: Of course there is. The third Act deals with the custody, management and disposal of evacuee property. I have got the Act here before me.

**Mr. President** : There seems to be a little confusion about this matter. Fourth is not the number of the Act, what is described here is the fourth amendment of the Act. That is not the number of the Act itself. The number of the Act is separate.

**The Honourable Dr. B. R. Ambedkar**: It is a description of the present Act. It is a short title.

**Mr. President** : It is only a description. The number will be Act No. 6 of 1949.

**The Honourable Dr. B. R. Ambedkar**: That is so. This is a short title.

**Mr. President** : The constituent Assembly has passed Five Acts upto now, in 1949 and this will be the sixth. But so far as amendments are concerned, it is the fourth amendment to the Government of India Act, and therefore it is called the Fourth amendment.

**Pandit Hirday Nath Kunzru** (United Provinces : General) : If out of the Five Acts that we have already passed....

**Mr. President** : This is the sixth.

**The Honourable Dr. B. R. Ambedkar**: We have passed in this Assembly five Acts. Out of them two have nothing to do with any amendment of the Government of India Act, 1935.

**Pandit Hirday Nath Kunzru**: Why were they placed before the Constituent

Assembly if they were not of a constitutional character?

**The Honourable Dr. B. R. Ambedkar:** The short title is quite different from the purport of the Act.

**Pandit Hriday Nath Kunzru :** The question is whether the right of a litigant to appeal to the Privy Council could have been taken away without an amendment to the Government of India Act, 1935.

**The Honourable Dr. B. R. Ambedkar :** The short title of the next Act was the Central Government and Legislature Amendment Act, 1949, that Act sought to amend the India (Central Government and Legislature) Act, 1946 which is an Act of Parliament and not the Government of India Act, 1935. The other Act was the abolition of Privy Council jurisdiction Act, 1949.

**Pandit Hriday Nath Kunzru:** But the earlier Act to which my honourable Friend has referred, namely, the Amendment to the Central Legislature Act was itself an amendment of the Government of India Act.

**The Honourable Dr. B. R. Ambedkar :** No, no, that is not, there was a separate Act passed by Parliament called the India (Central Government and Legislature) Act 1946. This amendment was an amendment to that Act. That Act was outside the Government of India Act, 1935.

**Shri R. K. Sidhva:** Perhaps Dr. Ambedkar will remember that the amendment to the Act from Cotton Seeds to Cotton was really an amendment to the Government of India Act, to which he has made no mention.

**The Honourable Dr. B. R. Ambedkar :** This would mean a sixth Act no doubt but the short title is something quite different to the number of the Acts. We are discussing the short titles.

**Shri T. T. Krishnamachari (Madras : General) :** This is a matter of nomenclature and in fact in the previous Acts amended by Parliament, they have given different names for Acts which in purport amended the Government of India Act, such as the India Burma Emergency Powers Act, 1942. The matter of nomenclature need not be pursued to its logical and bitter end. I suggest the House to proceed with the consideration of the Bill.

**Mr. Naziruddin Ahmad ;** Is there any Act No. IV?

**Mr. President :** There seems to be.

**The Honourable Dr. B. R. Ambedkar :** There is.

**Mr. Naziruddin Ahmad :** I have not got it.

**The Honourable Dr. B. R. Ambedkar :** If you have not a copy, what can we do ?

**Mr. President :** After all, nothing will turn upon the title

**The Honourable Dr. B. R. Ambedkar :** I can give him the number also, if he wants it.

Act No. I of 1949 is called by the short title of " The Government of India

(amendment) Act 1949."

Act No. II of 1949 is called " The Government of India (second amendment) Act, 1949."

Act No. III of 1949 is called "The India (Central Government and legislature) Amendment Act, 1949. "

Act No. IV of 1949 is called " The Government of India (Third Amendment) Act 1949. "

Act No. V of 1949 is called " The abolition of Privy Council Jurisdiction Act, 1949. "

Acts III and V have nothing to do with the Government of India Act, 1935 and that is why we call this the fourth Amendment of the Government of India Act.

**Mr. President** : The question is :

"That in sub-clause (1) of clause I, for the words 'Fourth Amendment ' the words ' Third Amendment ' be substituted."

The amendment was negatived.

**Mr. President** : The question is :

"That clause I do stand part of the Bill,"

The motion was adopted.

Clause I was added to the Bill.

### **Clause 2**

**Mr. Naziruddin Ahmad** : Sir, I beg to move :

" That clause 2 be deleted. "

Sir, I also beg to move :

" That in clause 2, the following statute reference be appended :

' 52 & 53 vict., C.63.' "

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**The Honourable Dr. B. R. Ambedkar** : All that I can say is that this is the uniform clause that has been passed by this Assembly in the other Acts amending the Government of India Act, therefore, in order to keep up the uniformity and to provide for the interpretation of this particular Act, clause 2 is a very necessary part of the Bill.

With regard to the suggestion of my friend all that it means is that there should be a marginal note giving the chapter number of the Interpretation Act of 1889. That is a matter for the draftsman to consider, and if he thinks such a marginal note is necessary, he will no doubt consider the matter. But this marginal note is not added against the clause of the other Acts which amend the Government of India Act of 1935.

**Mr. Naziruddin Ahmad** : Although Dr. Ambedkar says that in all the previous

Acts this clause appears, yet I beg to point out that in Act No. V, there is no such clause. I pointed out the omission but I was over-ruled.

**The Honourable Dr. B. R. Ambedkar** : That was a self-contained Act. It required no reference to the Interpretation Act at all.

*[The amendments of Naziruddin Ahmed were negatived and clause 2 was added to the Bill.]*

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### **Clause 3**

**Shri H. V. Pataskar** ; Sir, I move :

" That in clause 3, after the words ' alter the name of any Province ' the words ' after ascertaining the opinion of the members of the Legislature of the province whose name is proposed to be changed ' be added. "

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**The Honourable Dr. B. R. Ambedkar** : Sir, dealing First with the amendment of Mr. Pataskar, I am afraid I must point out That it would not fit in within the framework of section 290. My friend does not seem to have noticed that to the various sub-clauses of clause (1) of section 290 there is a general proviso which applies to all the sub-clauses (a), (b), (c) and (d). If he refers to that proviso he will find that his amendment would introduce double conditions for the operation of the new clause, namely sub-clause (e). Sub-clause (e) would be subject to the condition he wants to lay down in his amendment, namely, ' after ascertaining the opinion of the members of the legislature of the province whose name is proposed to be changed '. In addition to that, sub-clause (e) would also be governed by the proviso, namely that the Governor-General shall ascertain the views of the Government of the province. In view of this there would arise a very difficult condition, according to his amendment, the Governor-General will be bound to ascertain the wishes of the legislature. According to the proviso to section 290, he will be bound to ascertain the views of the Government of the province. He will therefore put himself in a double difficulty by reason of the fact that the Governor-General will have to consult *two* different bodies, that is not going to be a very easy matter. Secondly, he would realise that it is not quite justifiable that sub-clauses (a) to (d) should be governed by a single proviso, while the new sub clause (f) should be governed by two provisions.

**Shri H. V. Pataskar** : That is not so.

**The Honourable Dr. B. R. Ambedkar** : That is what I say. How do you know? Therefore it seems to me that he is pulling himself and the Governor

General in a somewhat difficult position by making such a suggestion. Do not therefore think that at this stage it would be logical to accept it, whatever be the merits of the suggestion.

Coming to the amendment of my friend, Mr. Sidhva, he seems to me to have completely confused the intention of this article and the provisions contained in the new Constitution. He speaks of Parliament and requires that the order made by the Governor-General be placed within three days of its making before Parliament. Mr. Sidhva has evidently forgotten that, when he speaks of the Parliament, he speaks of the legislature which comes into being on the 26th January 1950. On that date the Governor-General disappears, and this section 290 as well as the sub-clause (e) which I am trying to introduce by this measure will also disappear. On the 26th January what will be on the Statute Book and operative would be the provisions contained in article 3 of the new Constitution. He has, I am sorry to say, not paid sufficient attention to the point that I have sought to make.

**Shri R. K. Sidhva** : What the Governor-General does will be binding upon the President.

**The Honourable Dr. B. R. Ambedkar** : It seems to me that both these suggestions are impracticable. As to the general proposition whether Parliament should be brought in or not, we have to deal with two matters. One is that there is a general desire on the part of some of the provinces that the names by which they have been called under the Government of India Act 1935 do not smell sweet according to them, and they would like to begin with the names which they think are good enough for them on the date on which the Constitution commences. The Constituent Assembly felt at the time when the matter was discussed last time that this desire of some of the provinces whose names are not good enough in their own opinion has a good case and therefore a provision ought to be made for the Governor-General before the commencement of this Constitution to take such action as he thinks necessary to carry out the desires of the provinces. Therefore it seems to me that such a provision is necessary.

A certain amount of fear has been expressed that some provinces might suggest to the Governor-General names which may not be possible in the opinion of the other provinces, and consequently names which have been rejected by this House or disapproved by this House may be given to the new provinces without the knowledge of this Constituent Assembly or without the consent of the provincial legislatures concerned. It seems to me that that sort of suggestion is reading too much into section 290 as amended by this Bill because under section 290 the Governor-General has absolute discretion in this matter and is not bound to act upon the suggestion made either by the

Provincial Government or, if I accept the amendment of Mr. Pataskar, the opinion of the legislature. He is free to act and the only authority who is to advise him to act is the Cabinet at the Centre. All that is required under section 290 is to ascertain the views of the Government of the Province. That does not mean that the Governor-General is bound to accept any name that has been suggested. I am quite certain in my own mind that the discussion that has taken place in this House, the opinions expressed by this House on the suggestion made by Professor Saksena in regard to the name of the United Provinces will be taken into consideration by the Central Executive and by the Governor-General before he decides to take any action under the proposed amendment to article 290.

**Mr. President** : I will now put the amendments to the vote. Mr. Naziruddin Ahmad, do you want your amendment to be put to the vote? It is only a matter of punctuation?

**Mr. Naziruddin Ahmad** : It may be left to the Drafting committee.

**The Honourable Dr. B. R. Ambedkar**: It is a wrong amendment.

*[Clause 3, Preamble and the title were adopted and added to the Bill.]*

**The Honourable Dr. B. R. Ambedkar** : Sir, I move :

" That the Bill further to amend the Government of India Act, 1935, as settled by the Assembly, be passed. "

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The motion was adopted.

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### **DRAFT CONSTITUTION— (contd.)**

**Mr. Frank Anthony** (C. P. & Berar : General) : Mr. President, sir, first of all I wish to thank you for the unfailingly courteous and gracious manner in which you have invariably presided over the deliberations of this House. Deserving tribute has already been paid to the Drafting Committee for the way in which it has performed its arduous and responsible duties. I would like very briefly to pay a particular tribute to my honourable Friend, who is sitting on my right. Dr. Ambedkar. I do not believe that any one of us can really gauge the volume of work and the intensity of concentration that must have been involved in the production of this voluminous and by no means easy document. And while, on occasions, I may not have agreed with him, it always gave me the very greatest pleasure to listen to his tremendous grasp not only of fundamentals but of details, of the clarity with which he invariably presented his case. It has been said that this Constitution has received a mixed reception. It is inevitable that its reception should have been mixed because, inevitably, it is a mixed

Constitution. It is composite in character. I believe that it is a blend and a proper blend between idealism on the one side and realism on the other. I know that some of my ardently idealistic friends have criticised it. They would like to have seen instead of this blend something in the nature of a decalogue or the Ten Commandments, something which was so wholly idealistic that it would have wilted and died under the First impact of administrative realities and political difficulties.

As I have said, I believe that we have borrowed enough from idealism to make the Constitution a fairly attractive and an aspiring document and on the other hand we have not based it entirely on material, from mundane considerations so as to retard or in any way to take away from this the inspiring elements. I realize, Sir, that it is not a perfect document, but at the same time I feel that in hammering it out, we have traversed all the processes of the democratic manufactory, that we have ranged through the whole gamut of democratic factors; there has been careful thought; there has been close analysis; there has been argument and counter-argument; there has been fierce controversy and at one time I thought that the controversy was so fierce that we might reach the stage of what the Romans called *Argumentum ad baculum* that is, settling it by actual physical force. But in the final analysis has pervaded a real sense of accommodating and a real feeling of forbearance....

...May I end on this note—1 believe that by and large we have hammered out a good Constitution. It will be fallible and it will be necessarily imperfect as it is the product of imperfect human beings. But I believe we have done a good job of work and I believe that this Constitution deserves not only our good wishes but our blessings. But in sending it out on its mission with these blessings, I feel that the paramount consideration which should be before us permanently is not that we have framed a voluminous and important document—not that we have sought to give careful and elaborate guarantees to minorities, but that ultimately the final test by which this Constitution will be judged and by which it will stand or fall, the Final test will be the intention and the spirit with which the provisions of this Constitution are worked.

**Dr. Pattabhi Sitaramayya** : ...Finally let me ask you :— " What after all is a constitution ?" It is a grammar of politics, if you like, it is a compass to the political mariner. However good it may be, by itself it is inanimate, it is insensitive, and it cannot work by itself. It is of use to us only in the measure in which we are able to use it, because it has tremendous reserve force, and everything depends upon the manner in which we approach it, whether we observe the letter and ignore the spirit or whether we observe both the letter and (he spirit in equal measure. The words of the lexicon are the same, but they give rise to different styles of composition with different authors. The tunes



and the notes are the same, but they give rise to different music with different singers. The colours and the brushes are the same, but they are rendered into different pictures by different painters. So it is with a constitution. It depends upon how we work... ”.

...When all is said and done, we must realize how much we owe to the half a dozen men that have fashioned *Ms* Constitution and given it a shape and form. Our friend. Dr. Ambedkar, has gone away, else I should have liked to tell him what a steam-roller intellect he brought to bear upon this magnificent and tremendous task : irresistible, indomitable, unconquerable, levelling, down tall palms and short poppies : whatever he felt to be right he stood by, regardless of consequences.

Then there was Sir Alladi, with his oceanic depths of leaning, and a whole knowledge of the Constitutional Law of the world on his finger tips. He has made great contribution towards the drawing up of this Constitution. He only has to perfect it all by writing a commentary upon it. That was the latest request of Mr. Santhanam to him and I hope he will fulfil it.

Then we have Mr. Gopaldaswami Ayyangar : coy as a maiden and unobtrusive, but rising to the full heights of the necessities of the occasion, combining always the real with the ideal, and bringing a soft and kindly judgment on to a severe issue.

Next you have Mr. Munshi, the like of whom we cannot see for his resiliency and receptivity; his wide and varied knowledge, his sharp intellect and his ready resourcefulness have been a tremendous aid to us.

Mr. Madhava Rao is not here now. He was a Diwan of Mysore, he had laboured hard in our committee. He had vast experience from that of an Assistant Commissioner, Mysore, when I was still in my medical studies, until he became Diwan. He too has done his good bit in this work.

Then there is a man, who is almost unnoticed, and whose name has not been mentioned by any of my friends, to whom I would like to refer, the sweet and subdued Sa'adulla, who has brought a rich experience to bear upon the deliberations of this House.

Finally, comes the slim, tail man, who sits opposite to me, with his ready and rapier thrusts of repartee and rejoinder, whose sharp-pointed intellect always punctures or lacerates the opposition. But he is always able to cover up the injury with his plastic surgery and recuperative powers : and that is Mr. T. T. Krishnamachari.

We have all had the help of these people, but. Sir, the work of all these friends would have been of no use but for the sweetness, the gentleness, with which you turned towards a person when you wanted him to stop in his further speaking : the patience with which you waited in order to catch his eye,—not he

to catch your eye,—and the very gentle manner in which you cast the hint that he should now wind up; and when some of us were rebellious, disorderly and chaotic, you simply smiled in order to choke that attitude.

It is a great thing I tell you that we have achieved. It is not right to underestimate what we have achieved. Much has been done behind the curtains and but for the discipline and drilling of the majority party in this House, these deliberations would not have come to this happy end.

I thank you all for the great task that you have achieved and I congratulate you on it.

All that remains for me to say is that this Constitution is a good enough constitution for us to begin with. Work it, work upon it : work at it : work it out for all that you are worth and as the great Parliamentarian said in the seventies of the 19th Century when the franchise was developed, in the British House of Commons, say to yourselves. " Let us educate our Masters."

**Shri Jagat Narain Lal** : ...In the end, I wish to pay my high tributes both to the Chair, or President, and to the members of the Drafting Committee, particularly to Dr. Ambedkar, Mr. Munshi and Mr. Krishnamachari amongst many others.

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**Shri T. T. Krishnamachari** : Mr. President, Sir, at the outset I would like to express the thanks of the Drafting Committee to the members of this Honourable House, who, whatever their views might be on certain provisions of this Constitution, have, practically, one and all, paid tributes, to the work of the Drafting Committee —and, Sir, not the least of them all to my septuagenarian leader who in such kind tern's singled out every member of the Drafting Committee for recognition of his services, which I think we would all cherish to the end of our lives....

... But I am coming to the most vital portion of the manner in which the structure of the Constitution was undertaken. Honourable Members must realize that this Constitution as it has been mentioned by other members—before me is a result of compromise. 296 people who have assembled here hold different views on economic matters and we cannot frame a Constitution in which if I say that I am not going to allow a particular thing to be done and other people must follow that, then there will be no agreement. The whole Constitution practically—very important parts of this Constitution have been a matter of final agreement among the parties concerned and if anybody now objects to a single proposition after leaving agreed to most of the propositions. I am afraid they are doing something which is not proper. This Constitution has been completed as a result of agreement amongst most of us....

**Shri Mahavir Tyagi** : Sir, I am grateful to you for giving me this opportunity.

Sir, I assure you these four or five minutes granted by you are the most precious of my life, past, present and future, and they are the most thrilling moments. I stand today face to face with the picture of my old, old dreams and the fruits of my strenuous labours of thirty years. A concrete picture is before us. Dr. Ambedkar who was the main artist has laid aside his brush and unveiled the picture for the public to see and comment upon. The House has already liberally commented on it. It is a picture drawn by us all and I do not want to enter into a further commentary about it. I am in support of whatever has been said in favour of this picture, and I fully support it. After all, in all sincerity and humility we must bequeath to our posterity whatever is best in us, we have put in our best labour and given our best thought to it, and after a lot of discussions and deliberations we have arrived at this picture. We must now wholeheartedly bequeath it to posterity in the hope that they will forgive our shortcomings if any, and will make up these shortcomings with their wisdom. From the corner of my eye as I see it, and as also the world will see, the picture is also fraught with dangers....

**Shri Suresh Chandra Majumdar** : ...In conclusion, may I offer my respectful congratulations to Dr. Ambedkar and to my elders and colleagues in this House on the successful performance of a great, arduous and historic task? And I am sure I am echoing the sentiment of everyone here when I thank you, Mr. President, for the calm, patient, courteous and altogether exemplary manner in which you have guided the deliberations in this House. Jai Hind! Vande Mataram !!

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**Shri Raj Bahadur** (Rajasthan) : Mr. President, Sir, I am grateful to you for giving me this opportunity to associate myself with the high and well-deserved tributes that have been showered upon your good self, upon the Drafting Committee and the members of the staff of the Constituent Assembly. This is an occasion of the greatest historical significance. I say of the greatest significance because it is for the first time in our history that the chosen representatives of the nation have gathered together and framed a constitution for the country. It is doubly so because the great and worthy leaders who brought freedom to our country have been the architects of our Constitution....

... I would simply add at the end that whatever be the merits or the demerits of this Constitution, every thing depends upon the working of it. As Bryce has said, " it is easy to transplant a constitution but it is not easy to transplant the temperament that is needed for the working of it. "

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**The Honourable Dr. B. R. Ambedkar** : Sir, looking back on the work of the Constituent Assembly it will now be two years, eleven months and seventeen

days since it first met on the 9th of December 1946. During this period the Constituent Assembly has altogether held eleven sessions. Out of these eleven sessions the first six were spent in passing the Objectives Resolution and the consideration of the Reports of Committees on Fundamental Rights, on Union Constitution, on Union Powers, on Provincial Constitution, on Minorities and on the Scheduled Areas and Scheduled Tribes. The seventh, eighth, ninth, tenth and the eleventh sessions were devoted to the consideration of the Draft Constitution. These eleven sessions of the Constituent Assembly have consumed 165 days. Out of these, the Assembly spent 114 days for the consideration of the Draft Constitution.

Coming to the Drafting Committee, it was elected by the Constituent Assembly on 29th August 1947. It held its first meeting on 30th August. Since August 30th it sat for 141 days during which it was engaged in the preparation of the Draft Constitution. The Draft Constitution, as prepared by the Constitutional Adviser as a text for the Drafting Committee to work upon, consisted of 243 articles and 13 Schedules. The first Draft Constitution as presented by the Drafting Committee to the Constituent Assembly contained 315 articles and 8 Schedules. At the end of the consideration stage, the number of articles in the Draft Constitution increased to 386. In its final form, the Draft Constitution contains 395 articles and 8 Schedules. The total number of amendments to the Draft Constitution tabled was approximately 7,635. Of them, the total number of amendments actually moved in the house were 2,473.

I mention these facts because at one stage it was being said that the Assembly had taken too long a time to finish its work, that it was going on leisurely and wasting public money. It was said to be a case of Nero fiddling while Rome was burning. Is there any justification for this complaint? Let us note the time consumed by Constituent Assemblies in other countries appointed for framing their Constitutions. To take a few illustrations, the American Convention met on May 25th, 1787 and completed its work on September 17, 1787 ie- within four months. The Constitutional Convention of Canada met on the 10th October 1864 and the Constitution was passed into law in March 1867 involving a period of two years and five months. The Australian Constitutional Convention assembled in March 1891 and the Constitution became law on the 9th July 1900, consuming a period of nine years. The South African Convention met in October 1908 and the Constitution became law on the 20th September 1909 involving one, year's labour. It is true that we have taken more time than what the American or South African Conventions did. But we have not taken more time than the Canadian Convention and much less than the Australian Convention. In making

comparisons on the basis of time consumed, two filings must be remembered. One is that the Constitutions of America, Canada, South Africa and Australia are much smaller than ours. Our Constitution, as I said, contains 395 articles while the American has just seven articles, the first four of which are divided into sections which total up to 21, the Canadian has 147, Australian 128 and South African 153 sections. The second thing to be remembered is that the makers of the Constitutions of America, Canada, Australia and South Africa did not have to face the problem of amendments. They were passed as moved. On the other hand, this Constituent Assembly had to deal with as many as 2,473 amendments. Having regard to these facts the charge of dilatoriness seems to me quite unfounded and this Assembly may well congratulate itself for having accomplished so formidable a task in so short a time.

Turning to the quality of the work done by the Drafting Committee, Mr. Naziruddin Ahmed felt it his duty to condemn it outright. In his opinion, the work done by the Drafting Committee is not only not worthy of commendation, but is positively below par. Everybody has a right to have his opinion about the work done by the Drafting Committee and Mr. Naziruddin is welcome to have his own. Mr. Naziruddin Ahmed thinks he is a man of greater talents than any member of the Drafting Committee. The Drafting Committee does not wish to challenge his claim. On the other hand, the Drafting Committee would have welcomed him in their midst if the Assembly had thought him worthy of being appointed to it. If he had no place in the making of the Constitution it is certainly not the fault of the Drafting Committee.

Mr. Naziruddin Ahmad has coined a new name for the Drafting Committee evidently to show his contempt for it. He calls it a Drifting Committee. Mr. Naziruddin must no doubt be pleased with his hit. But he evidently does not know that there is a difference between drift without mastery and drift with mastery. If the Drafting Committee was drifting, it was never without mastery over the situation. It was not merely angling with the off chance of catching a fish. It was searching in known waters to find the fish it was after. To be in search of something better is not the same as drifting. Although Mr. Naziruddin Ahmad did not mean it as a compliment to the Drafting Committee, I take it as a compliment to the Drafting Committee. The Drafting Committee would have been guilty of gross dereliction of duty and of a false sense of dignity if it had not shown the honesty and the courage to withdraw the amendments which it thought faulty and substitute what it thought was better. If it is a mistake, I am glad the Drafting Committee did not fight shy of admitting such mistakes and coming forward to correct them.

I am glad to find that with the exception of a solitary member, there is a general consensus of appreciation from the members of the Constituent

Assembly of the work done by the Drafting Committee. I am sure the Drafting Committee feels happy to find this spontaneous recognition of its labours expressed in such generous terms. As to the compliments that have been showered upon me both by the members of the Assembly as well as by my colleagues of the Drafting Committee I feel so overwhelmed that I cannot find adequate words to express fully my gratitude to them. I came into the Constituent Assembly with no greater aspiration than to safeguard the interests of the Scheduled Castes. I had not the remotest idea that I would be called upon to undertake more responsible functions. I was therefore greatly surprised when the Assembly elected me to the Drafting Committee. I was more than surprised when the Drafting Committee elected me to be its Chairman. There were, in the Drafting Committee men bigger, better and more competent than myself such as my friend Sir Alladi Krishnaswami Ayyar. I am grateful to the Constituent Assembly and the Drafting Committee for reposing in me so much trust and confidence and to have chosen me as their instrument and given me this opportunity of serving the country. (*Cheers.*)

The credit that is given to me does not really belong to me. It belongs partly to Sir B. N. Rau, the Constitutional Adviser to the Constituent Assembly who prepared a rough draft of the Constitution for the consideration of the Drafting Committee. A part of the credit must go to the members of the Drafting Committee who, as I have said, have sat for 141 days and without whose ingenuity to devise new formulae and capacity to tolerate and to accommodate different points of view, the task of framing the Constitution could not have come to so successful a conclusion. Much greater share of the credit must go to Mr. S. N. Mukherjee, the Chief Draftsman of the Constitution. His ability to put the most intricate proposals in the simplest and clearest legal form can rarely be equalled, nor his capacity for hard work. He has been an acquisition to the Assembly. Without his help, this Assembly would have taken many more years to finalise the Constitution. I must not omit to mention the members of the staff working under Mr. Mukherjee, for, I know how hard they have worked and how long they have toiled, sometimes even beyond midnight. I want to thank them all for their effort and their co-operation, (*cheers.*)

The task of the Drafting Committee would have been a very difficult one if this Constituent Assembly has been merely a motley crowd, a tasseleted pavement without cement, a black stone here and a white stone there in which each member or each group was a law unto itself. There would have been nothing but chaos. This possibility of chaos was reduced to nil by the existence of the Congress Party inside the Assembly which brought into its proceedings a sense of order and discipline. It is because of the discipline of the Congress Party that the Drafting Committee was able to pilot the Constitution in the Assembly with

the sure knowledge as to the fate of each article and each amendment. The Congress Party is, therefore, entitled to all the credit for the smooth sailing of the Draft Constitution in the Assembly.

The proceedings of this Constituent Assembly would have been very dull if all members had yielded to the rule of party discipline. Party discipline, in all its rigidity, would have converted this Assembly into a gathering of 'yes' men. Fortunately, there were rebels. They were Mr. Kamath, Dr. P. S. Deshmukh, Mr. Sidhva, Prof. Sexena and Pandit Thakur Das Bhargava. Along with them I must mention Prof. K. T. Shall and Pandit Hirday Nath Kunzru. The points they raised were mostly ideological. That I was not prepared to accept their suggestions, does not diminish the value of their suggestions nor lessen the service they have rendered to the Assembly in enlivening its proceedings. I am grateful to them. But for them, I would not have had the opportunity which I got for expounding the principles underlying the Constitution which was more important than the mere mechanical work of passing the Constitution.

Finally, I must thank you Mr. President for the way in which you have conducted the proceedings of this Assembly. The courtesy and the consideration which you have shown to the Members of the Assembly can never be forgotten by those who have taken part in the proceedings of this Assembly. There were occasions when the amendments of the Drafting Committee were sought to be barred on grounds purely technical in their nature. Those were very anxious moments for me. I am, therefore, specially grateful to you for not permitting legalism to defeat the work of Constitution-making.

As much defence as could be offered to the Constitution has been offered by my friends Sir Alladi Krishnaswami Ayyar and Mr. T. T. Krishnamachari. I shall not therefore enter into the merits of the Constitution. Because I feel, however good a Constitution may be, it is sure to turn out bad because those who are called to work it, happen to be a bad lot. However bad a Constitution may be, it may turn out to be good if those who are called to work it, happen to be a good lot. The working of a Constitution does not depend wholly upon the nature of the Constitution. The Constitution can provide only the organs of State such as the Legislature, the Executive and the Judiciary. The factors on which the working of those organs of the State depend are the people and the political parties they will set up as their instruments to carry out their wishes and their politics. Who can say how the people of India and their parties will behave? Will they uphold constitutional methods of achieving their purposes or will they prefer revolutionary methods of achieving them? If they adopt the revolutionary methods; however good the Constitution may be, it requires no prophet to say that it will fail. It is, therefore, futile to pass any judgement upon the Constitution

without reference to the part which the people and their parties are likely to play.

The condemnation of the Constitution largely comes from two quarters, the Communist Party and the Socialist Party. Why do they condemn the Constitution ? Is it because it is really a bad Constitution ? I venture to say ' no.' The Communist Party wants a Constitution based upon the principle of the Dictatorship of the Proletariat. They condemn the Constitution because it is based upon parliamentary democracy. The Socialists want two things. The first thing they want is that if they come in power, the Constitution must give them the freedom to nationalize or socialize all private property without payment of compensation. The second thing that the Socialists want is that the Fundamental Rights mentioned in the Constitution must be absolute and without any limitations so that if their Party fails to come into power, they would have the unfettered freedom not merely to criticize, but also to overthrow the State.

These are the main grounds on which the Constitution is being condemned. I do not say that the principle of parliamentary democracy is the only ideal form of political democracy. I do not say that the principle of no acquisition of private property without compensation is so sacrosanct that there can be no departure from it. I do not say that Fundamental Rights can never be absolute and the limitations set upon them can never be lifted. What I do say is that the principles embodied in the Constitution are the views of the present generation or if you think this to be an overstatement, I say they are the views of the members of the Constituent Assembly. Why blame the Drafting Committee for embodying them in the Constitution ? I say why blame even the Members of the Constituent Assembly ? Jefferson, the great American statesman who played so great a part in the making of the American Constitution, has expressed some very weighty views which makers of Constitution, can never afford to ignore. In one place, he has said :—

" We may consider each generation as a distinct nation, with a right, by the will of the majority, to bind themselves, but none to bind the succeeding generation, more than the inhabitants of another country. "

In another place, he has said :

" The idea that institutions established for the use of the nation cannot be touched or modified, even to make them answer their end, because of rights gratuitously supposed in those employed to manage them in the trust for the public, may perhaps be a salutary provision against the abuses of a monarch, but is most absurd against the nation itself. Yet our lawyers and priests generally inculcate this doctrine, and suppose that preceding generations held the earth more freely than we do; had a right to impose laws on us, unalterable by ourselves, and that we, in the like manner, can



make laws and impose burdens on future generations, which they will have no right to alter; in fine, that the earth belongs to the dead and not the living; "

I admit that what Jefferson has said is not merely true, but is absolutely true. There can be no question about it. Had the Constituent Assembly departed from this principle laid down by Jefferson it would certainly be liable to blame, even to condemnation. But I ask, has it ? Quite the contrary. One has only to examine the provision relating to the amendment of the Constitution. The Assembly has not only refrained from putting a seal of finality and infallibility upon this Constitution by denying to the people the right to amend the Constitution as in Canada or by making the amendment of the Constitution subject to the fulfilment of extraordinary terms and conditions as in America or Australia, but has provided a most facile procedure for amending the Constitution. I challenge any of the critics of the Constitution to prove that any Constituent Assembly anywhere in the world has, in the circumstances in which this country finds itself, provided such a facile procedure for the amendment of the Constitution. If those who are dissatisfied with the Constitution have only to obtain a 2/3 majority and if they cannot obtain even a two-third majority in the parliament elected on adult franchise in their favour, their dissatisfaction with the Constitution cannot be deemed to be shared by the general public.

There is only one point of constitutional import to which I propose to make a reference. A serious complaint is made on the ground that there is too much of centralization and that the States have been reduced to Municipalities. It is clear that this view is not only an exaggeration, but is also founded on a misunderstanding of what exactly the Constitution contrives to do. As to the relation between the Centre and the States, it is necessary to bear in mind the fundamental principle on which it rests. The basic principle of Federalism is that the Legislative and Executive authority is partitioned between the Centre and the States not by any law to be made by the Centre but by the Constitution itself. This is what Constitution does. The States under our Constitution are in no way dependent upon the Centre for their legislative or executive authority. The Centre and the States are co-equal in this matter. It is difficult to see how such a Constitution can be called centralism. It may be that the Constitution assigns to the Centre too large a field for the operation of its legislative and executive authority than is to be found in any other federal Constitution. It may be that the residuary powers are given to the Centre and not to the States. But these features do not form the essence of federalism. The chief mark of federalism as I said lies in the partition of the legislative and executive authority between the Centre and the Units by the Constitution. This is the principle embodied in our Constitution. There can be no mistake about it. It is, therefore, wrong to say that the States have been placed under the Centre. Centre cannot

by its own will alter the boundary of that partition. Nor can the Judiciary. For as has been well said:

" Courts may modify, they cannot replace, they can revise earlier interpretations as new arguments, new points of view are presented, they can shift the dividing line in marginal cases, but there are barriers they cannot pass, definite assignments of power they cannot reallocate. They can give a broadening construction of existing powers, but they cannot assign to one authority powers explicitly granted to another. "

The first charge of centralisation defeating federalism must therefore fall.

The second charge is that the Centre has been given the power to override the States. This charge must be admitted. But before condemning the Constitution for containing such overriding powers, certain considerations must be borne in mind. The first is that these overriding powers do not form the normal feature of the Constitution. Their use and operation are expressly confined to emergencies only. The second consideration is : Could we avoid giving overriding powers to the Centre when an emergency has arisen ? Those who do not admit the justification for such overriding powers to the Centre even in an emergency, do not seem to have a clear idea of the problem which lies at the root of the matter. The problem is so clearly set out by a writer in that wellknown magazine " The Round Table " in its issue of December 1935 that I offer no apology for quoting the following extract from it. Says the writer :

" Political systems are a complex of rights and duties resting ultimately on the question, to whom, or to what authority, does the citizen owe allegiance. In normal affairs the question is not present, for the law works smoothly, and a man goes about his business obeying one authority in this set of matters and another authority in that. But in a moment of crisis, a conflict of claims may arise, and it is then apparent that ultimate allegiance cannot be divided. The issue of allegiance cannot be determined in the last resort by a juristic interpretation of statutes. The law must conform to the facts or so much the worse for the law. When all formalism is stripped away, the bare question is, what authority commands the residual loyalty of the citizen. Is it the Centre or the Constituent State ?"

The solution of this problem depends upon one's answer to this question which is the crux of the problem. There can be no doubt that in the opinion of the vast majority of the people, the residual loyalty of the citizen in an emergency must be to the Centre and not to the Constituent States. For it is only the Centre which can work for a common end and for the general interests of the country as a whole. Herein lies the justification for giving to the Centre certain overriding powers to be used in an emergency. And after all what is the obligation imposed upon the constituent States by these emergency powers ? No more than this—that in an emergency, they should take into consideration alongside their own local interests, the opinions and interests of the nation as a

whole. Only those who have not understood the problem, can complain against it.

Here I could have ended. But my mind is so full of the future of our country that I feel I ought to take this occasion to give expression to some of my reflections thereon. On 26th January 1950, India will be an independent country (*Cheers*). What would happen to her independence ? Will she maintain her independence or will she lose it again ? This is the first thought that comes to my mind. It is not that India was never an independent country. The point is that she once lost the independence she had. Will she lose it a second time ? It is this thought which makes me most anxious for the future. What perturbs me greatly is the fact that not only India has once before lost her independence, but she lost it by the infidelity and treachery of some of her own people. In the invasion of Sind by Mahommed-Bin-Kasim, the military commanders of King Dahar accepted bribes from the agents of Mahommed-Bin-Kasim and refused to fight on the side of their King. It was Jaichand who invited Mahommed Ghori to invade India and fight against Prithvi Raj and promised him the help of himself and the Solanki kings. When Shivaji was fighting for the liberation of Hindus, the other Maratha noblemen and the Rajput Kings were fighting the battle on the side of Moghul Emperors. When the British were trying to destroy the Sikh Rulers, Gulab Singh, their principal commander sat silent and did not help to save the Sikh kingdom. In 1857, when a large part of India had declared a war of independence against the British, the Sikhs stood and watched the event as silent spectators.

Will history repeat itself ? It is this thought which fills me with anxiety. This anxiety is deepened by the realization of the fact that in addition to our old enemies in the form of castes and creeds we are going to have many political parties with diverse and opposing political creeds. Will Indians place the country above their creed or will they place creed above country ? I do not know. But this much is certain that if the parties place creed above country, our independence will be put in jeopardy a second time and probably be lost for ever. This eventuality we must all resolutely guard against. We must be determined to defend our independence with the last drop of our blood. (*Cheers.*)

On the 26th of January 1950, India would be a democratic country in the sense that India from that day would have a government of the people, by the people and for the people. The same thought comes to my mind. What would happen to her democratic Constitution ? Will she be able to maintain it or will she lose it again. This is the second thought that comes to my mind and makes me as anxious as the first.

It is not that India did not know what is Democracy. There was a time when

India was studded with republics, and even where there were monarchies, they were either elected or limited. They were never absolute. It is not that India did not know Parliaments or Parliamentary Procedure. A study of the Buddhist Bhikshu Sanghas discloses that not only there were Parliaments—for the Sanghas were nothing but Parliaments—but the Sanghas knew and observed all the rules of Parliamentary Procedure known to modern times. They had rules regarding seating arrangements, rules regarding Motions, Resolutions, Quorum, Whip, Counting of Votes, Voting by Ballot, Censure Motion, Regularization, *Res JudicaUI*, etc. Although these rules of Parliamentary Procedure were applied by the Buddha to the meetings of the Sanghas, he must have borrowed them from the rules of the Political Assemblies functioning in the country in his time.

This democratic system India lost. Will she lose it a second time ? I do not know, but it is quite possible in a country like India—where democracy from its long disuse must be regarded as something quite new—there is danger of democracy giving place to dictatorship. It is quite possible for this new born democracy to retain its form but give place to dictatorship in fact. If there is a landslide, the danger of the second possibility becoming actuality is much greater.

If we wish to maintain democracy not merely in form, but also in fact, what must we do ? The first thing in my judgement we must do is to hold fast to constitutional methods of achieving our social and economic objectives. It means we must abandon the bloody methods of revolution. It means that we must abandon the method of civil disobedience, non-cooperation and satyagraha. When there was no way left for constitutional methods for achieving economic and social objectives, there was a great deal of justification for unconstitutional methods. But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy and the sooner they are abandoned, the better for us.

The second thing we must do is to observe the caution which John Stuart Mill has given to all who are interested in the maintenance of democracy, namely, not " to lay their liberties at the feet of even a great man, or to trust him with powers which enable him to subvert their institutions. " There is nothing wrong in being grateful to great men who have rendered life-long services to the country. But there are limits to gratefulness. As has been well said by the Irish Patriot Daniel O'Connell, ' no man can be grateful at the cost of his honour, no woman can be grateful at the cost of her chastity and no nation can be grateful at the-cost of its liberty.' This caution is far more necessary in the case of India than in the case of any other country, for in India, Bhakti or what may be called

the path of devotion or hero-worship, plays a part in its politics unequalled in magnitude by the part it plays in the politics of any other country in the world. Bhakti in religion may be a road to the salvation of the soul. But in politics, Bhakti or hero-worship is a sure road to degradation and to eventual dictatorship.

The third thing we must do is not to be content with mere political democracy. We must make our political democracy a social democracy as well. Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean ? It means a way of life which recognizes liberty, equality and fraternity as the principles of life. These principles of liberty, equality and fraternity are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality, equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality, liberty would produce the supremacy of the few over the many. Equality without liberty would kill individual initiative. Without fraternity, liberty and equality could not become a natural course of things. It would require a constable to enforce them. We must begin by acknowledging the fact that there is complete absence of two things in Indian Society. One of these is equality. On the social plane, we have in India a society based on the principle of graded inequality which means elevation for some and degradation for others. On the economic plane, we have a society in which there are some who have immense wealth as against many who live in abject poverty. On the 26th of January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality. In Politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value. How long shall we continue to live this life of contradictions ? How long shall we continue to deny equality in our social and economic life ? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which this Assembly has so laboriously built up.

The second thing we are wanting in is recognition of the principle of fraternity. What does fraternity mean ? Fraternity means a sense of common brotherhood of all Indians—if Indians being one people. It is the principle which gives unity and solidarity to social life. It is a difficult thing to achieve. How difficult it is, can be realized from the story related by James Bryce in his volume on American

Commonwealth about the United States of America. The story is—I propose to recount it in the words of Bryce himself— that—

" Some years ago the American Protestant Episcopal Church was occupied at its triennial convention in revising its liturgy. It was thought desirable to introduce among the short sentence prayers a prayer for the whole people, and an eminent New England divine proposed the words ' O Lord, bless our nation '. Accepted one afternoon on the spur of the moment, the sentence was brought up next day for reconsideration, when so many objections were raised by the laity to the word ' nation ' as importing too definite a recognition of national unity, that it was dropped, and instead there were adopted the words 'O Lord, bless these United States '"

There was so little solidarity in the U.S.A. at the time when this incident occurred that the people of America did not think that they were a nation. If the people of the United States could not feel that they were a nation, how difficult it is for Indians to think that they are a nation. I remember the days when politically-minded Indians resented the expression " the people of India ". They preferred the expression " the Indian nation. " I am of opinion that in believing that we are a nation, we are cherishing a great delusion. How can people divided into several thousands of castes be a nation ? The sooner we realize that we are not as yet a nation in the social and psychological sense of the word, the better for us. For then only we shall realize the necessity of becoming a nation and seriously think of ways and means of realizing the goal. The realization of this goal is going to be very difficult—far more difficult than it has been in the United States. The United States has no caste problem. In India there are castes. The castes are anti-national. In the First place because they bring about separation in social life. They are anti-national also because they generate jealousy and antipathy between caste and caste. But we must overcome all these difficulties if we wish to become a nation in reality. For fraternity can be a fact only when there is a nation. Without fraternity, equality and liberty will be no deeper than coats of paint.

These are my reflections about the tasks that lie ahead of us. They may not be very pleasant to some. But there can be no gainsaying that political power in this country has too long been the monopoly of a few and the many are not only beasts of burden, but also beasts of prey. This monopoly has not merely deprived them of their chance of betterment, it has sapped them of what may be called the significance of life. These down-trodden classes are tired of being governed, they are impatient to govern themselves. This urge for self-realization in the downtrodden classes must not be allowed to develop into a class struggle or class war. It would lead to a division of the House. That would indeed be a day of disaster. For, as has been well said by Abraham Lincoln, a house divided against itself cannot stand very long. Therefore the sooner room

is made for the realization of their aspiration, the better for the few, the better for the country, the better for the maintenance for its independence and the better for the continuance of its democratic structure. This can only be done by the establishment of equality and fraternity in all spheres of life. That is why I have laid so much stress on them.

I do not wish to weary the House any further. Independence is no doubt a matter of joy. But let us not forget that this independence has thrown on us great responsibilities. By independence, we have lost the excuse of blaming the British for anything going wrong. If hereafter things go wrong, we will have nobody to blame except ourselves. There is great danger of things going wrong. Times are fast changing. People including our own are being moved by new ideologies. They are getting tired of government by the people. They are prepared to have Government for the people and are indifferent whether it is Government of the people and by the people. If we wish to preserve the Constitution in which we have sought to enshrine the principle of Government of the people, for the people and by the people, let us resolve not to be tardy in the recognition of the evils that lie across our path and which induce people to prefer Government for the people to Government by the people, nor to be weak in our initiative to remove them. That is the only way to serve the country. I know of no better.

**Mr. President** : The House will adjourn till Ten of the clock tomorrow morning when we shall take up the voting on the motion which was moved by Dr. Ambedkar.

The Assembly then adjourned till ten of the Clock on Saturday, the 26<sup>th</sup> November, 1949.

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### (ADOPTION OF THE CONSTITUTION)

**President** (Dr. Rajendra Prasad) : ...Before I close, I must express my thanks to all the Members of this August Assembly from whom I have received not only courtesy but, if I may say so, also their respect and affection. Sitting in the chair and watching the proceeding from day to day, I have realised as nobody else could have, with rare what zeal and devotion the members of the Drafting committee and especially its Chairman, Dr. Ambedkar, in spite of his indifferent health, have worked. (*Cheers*). We could never make a decision which was or could be ever so right as when we put him on the Drafting Committee and made him its Chairman. He has not only justified his selection but has added lustre to the work which he has done. In this connection, it would be invidious to make any distinction as among the other members of the Committee. I know they have all worked with the same zeal and devotion as its

Chairman, and they deserve the thanks of the country....

All deserve my thanks as I have received courtesy, co-operation and legal service from all. (*Prolonged cheers*).

It now remains to put the motion which was moved by Dr. Ambedkar, to the vote of the House. The question is :

" That the Constitution as settled by the Assembly be passed."

The motion was adopted. (*Prolonged Cheers*).

***[President then authenticated the Constitution. The House gave authority to the President to call another session in January 1950 by a voice vote. The honourable Members then shook hands with Mr. President one by one.]***

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*(The Constituent Assembly had also legislative functions. These legislative functions encompassed usual parliamentary business, including amendments to various laws. Dr. Ambedkar's speeches relating to those legislations including the Hindu Code Bill, as distinguished from the framing of India's Constitution, are included in the next volume—Vasant Moon)*

[Continued...](#)